

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DONALD HESS and ELIZABETH
PADILLA, individually and on behalf of
all others similarly situated,

Plaintiffs,

-against-

BED BATH & BEYOND INC.,

Defendant.

ANALISA TORRES, District Judge:

USDC SDNY
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21 Civ. 4099 (AT)

ORDER

The Court has reviewed the parties' letters dated December 23 and 28, 2021. ECF Nos. 51, 52. Defendant requests that (1) the Court construe its pending motion to dismiss Plaintiff's first amended complaint as a motion to dismiss the second amended complaint and; (2) grant Defendant leave to file a subsequent dispositive motion to address tolling issues. The requests are DENIED. Defendant's pending motion to dismiss the first amended complaint, ECF Nos. 31 and 34, is DENIED without prejudice to renewal. Accordingly:

1. By **February 8, 2022**, Defendant shall file a motion to dismiss Plaintiff's second amended complaint, which shall incorporate any arguments as to tolling issues raised by Defendants;
2. By **March 1, 2022**, Plaintiff shall file their opposition papers;
3. By **March 15, 2022**, Defendant shall file its reply, if any.

The renewed motion and Defendant's reply shall comply with the page limitations stipulated in the Court's Individual Practices in Civil Cases III(D).

The Clerk of Court is directed to terminate the motions pending at ECF Nos. 31, 34, and 51.

SO ORDERED.

Dated: January 4, 2022
New York, New York



ANALISA TORRES
United States District Judge